

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 808

Introduced by Assembly Member La Suer

February 18, 2005

An act to ~~amend Section 11350 of the Health and Safety Code, relating to controlled substances~~ add Section 1520.10 to the Health and Safety Code, and to add Section 5058.05 to the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 808, as amended, La Suer. ~~Controlled substances—Sex offenders: group homes: parole facilities.~~

(1) Under the existing California Community Care Facilities Act, the State Department of Social Services generally regulates the licensure and operation of community care facilities, including group homes. Under existing law, a violation of these provisions is a misdemeanor.

The act requires any person desiring a license for a community care facility to file an application with the department that includes, among other things, evidence satisfactory to the department that the applicant is of reputable and responsible character. The act requires that evidence to include a criminal record clearance. The act requires applicants for a group home facility license to meet additional requirements.

This bill would prohibit a person convicted of a felony from owning, operating, managing, or being employed within a group home where one or more convicted sex offenders are placed or reside. By changing the definition of a crime, this bill would impose a state-mandated local program. If one or more convicted sex offenders are placed or reside

in a group home, the bill would authorize the department to revoke the license of that group home if the owner, operator, manager, or any employee of the group home is a convicted felon.

(2) Existing law generally authorizes the Director of Corrections to prescribe and amend rules and regulations for the administration of parole and requires the director to maintain, publish, and make available to the general public, a compendium of those rules and regulations.

This bill would prohibit a person convicted of any felony from owning, operating, managing, or being employed within a residential facility under contract with the Department of Corrections for placement of persons released on parole if those persons placed or residing in the facility include one or more convicted sex offenders. The bill would also require the director to adopt rules and regulations, as necessary, to further that objective.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law makes it a crime to possess designated controlled substances.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 11350 of the Health and Safety Code is~~
2 ~~amended to read:~~

3 *SECTION 1. Section 1520.10 is added to the Health and*
4 *Safety Code, to read:*

5 *1520.10. (a) A person convicted of a felony shall not own,*
6 *operate, manage, or be employed within a group home where*
7 *one or more convicted sex offenders are placed or reside.*

8 *(b) If one or more convicted sex offenders are placed or reside*
9 *in a group home, the department may revoke the license of that*

1 group home if the owner, operator, manager, or any employee of
2 the group home is a convicted felon.

3 SEC. 2. Section 5058.05 is added to the Penal Code, to read:

4 5058.05. (a) A person convicted of any felony shall not own,
5 operate, manage, or be employed within a residential facility
6 under contract with the Department of Corrections for placement
7 of persons released on parole if those persons placed or residing
8 in the facility include one or more convicted sex offenders.

9 (b) The director shall adopt rules and regulations, as
10 necessary, to further the objectives of subdivision (a).

11 SEC. 3. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the
16 penalty for a crime or infraction, within the meaning of Section
17 17556 of the Government Code, or changes the definition of a
18 crime within the meaning of Section 6 of Article XIII B of the
19 California Constitution.

20 ~~11350. (a) Except as otherwise provided in this division,~~
21 ~~every person who possesses (1) any controlled substance~~
22 ~~specified in subdivision (b) or (c), or paragraph (1) of subdivision~~
23 ~~(f) of Section 11054, specified in paragraph (14), (15), or (20) of~~
24 ~~subdivision (d) of Section 11054, or specified in subdivision (b)~~
25 ~~or (c) of Section 11055, or specified in subdivision (h) of Section~~
26 ~~11056, or (2) any controlled substance classified in Schedule III,~~
27 ~~IV, or V which is a narcotic drug, unless upon the written~~
28 ~~prescription of a physician, dentist, podiatrist, or veterinarian~~
29 ~~licensed to practice in this state, shall be punished by~~
30 ~~imprisonment in the state prison.~~

31 ~~(b) Except as otherwise provided in this division, every~~
32 ~~person who possesses any controlled substance specified in~~
33 ~~subdivision (c) of Section 11054 shall be punished by~~
34 ~~imprisonment in the county jail for not more than one year or in~~
35 ~~the state prison.~~

36 ~~(c) Except as otherwise provided in this division, whenever a~~
37 ~~person who possesses any of the controlled substances specified~~
38 ~~in subdivision (a) or (b), the judge may, in addition to any~~
39 ~~punishment provided for pursuant to subdivision (a) or (b), assess~~
40 ~~against that person a fine not to exceed seventy dollars (\$70),~~

1 with proceeds of this fine to be used in accordance with Section
2 1463.23 of the Penal Code. The court shall, however, take into
3 consideration the defendant's ability to pay, and no defendant
4 shall be denied probation because of his or her inability to pay
5 the fine permitted under this subdivision.

6 (d) Except in unusual cases in which it would not serve the
7 interest of justice to do so, whenever a court grants probation
8 pursuant to a felony conviction under this section, in addition to
9 any other conditions of probation which may be imposed, the
10 following conditions of probation shall be ordered:

11 (1) For a first offense under this section, a fine of at least one
12 thousand dollars (\$1,000) or community service.

13 (2) For a second or subsequent offense under this section, a
14 fine of at least two thousand dollars (\$2,000) or community
15 service.

16 (3) If a defendant does not have the ability to pay the
17 minimum fines specified in paragraphs (1) and (2), community
18 service shall be ordered in lieu of the fine.